

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

THE EMMES COMPANY, LLC,

Plaintiff,

v.

SAP AMERICA, INC.,

Defendant.

CIVIL ACTION
NO. 21-0019

ORDER

AND NOW, this 28th day of April 2021, upon consideration of Defendant's Motion to Dismiss (ECF 11), Plaintiff's Response (ECF 26) and Defendant's Reply (ECF 27), it is hereby **ORDERED** that, for the reasons stated in the Court's Memorandum:

1. Defendant's Motion is **GRANTED** as to Counts II, III, IV and V of the Complaint. Counts II and IV are **DISMISSED without prejudice**. Counts III and V are **DISMISSED with prejudice**.
2. Defendant's Motion is **DENIED** in all other respects.
3. Plaintiff may amend its Complaint, consistent with the Court's Memorandum, on or before Wednesday, May 12, 2021.

BY THE COURT:

/s/ Gerald J. Pappert
GERALD J. PAPPERT, J.